

## Update: Criminal Procedure Monograph 8—Felony Sentencing

### Part VI—Fashioning an Appropriate Sentence

#### 8.28 Concurrent and Consecutive Sentences

##### C. Discretionary Consecutive Sentences

**For the following offenses, consecutive sentencing is discretionary for violations “arising out of the same transaction as the sentencing offense.”**

Effective August 28, 2006, 2006 PAs 165, 169,\* and 171 amended MCL 750.520b and 520c to add general sentencing provisions applicable to first-degree criminal sexual conduct (CSC-1) convictions and to provide specific penalties for certain CSC-1 offenses involving an offender aged 17 years or older and a victim under the age of 13. 2006 PA 171 also added a section to the Penal Code (MCL 750.520n) requiring that offenders convicted of CSC-1 or CSC-2 under certain circumstances be subject to lifetime electronic monitoring. MCL 750.520n and MCL 750.520b(3) permit consecutive sentencing for violations arising from the same transaction. Therefore, add the following bulleted text after the seventh bullet on page 139:

- MCL 750.520b(2)(a) and (b), first-degree criminal sexual conduct involving an offender aged 17 or older and a victim under the age of 13. MCL 750.520b(3).
- MCL 750.520n(2), violations involving equipment used for certain offenders subject to lifetime electronic monitoring.\* MCL 750.520n(4).

**Note:** Lifetime electronic monitoring, MCL 791.285, was established by 2006 PA 172, effective August 28, 2006. Pursuant to MCL 791.285(3), “‘electronic monitoring’ means a device by which, through global positioning system satellite or other means, an individual’s movement and location are tracked and recorded.”

\*2006 PA 169 incorporates changes first made to MCL 750.520b(2) by 2006 PA 165 (SB 709).

## Appendixes

### Appendix G

#### **Offenses for which mandatory incarceration is prescribed, and therefore, for which probation is not authorized.**

##### **Mandatory life without parole**

Effective August 28, 2006, 2006 PAs 165 and 169 amended MCL 750.520b to require a sentence of life imprisonment without parole when an offender aged 17 or older is convicted of CSC-1 involving a victim under the age of 13 and the offender was previously convicted of violating MCL 750.520b, 520c, 520d, 520e, or 520g and the victim was under the age of 13. Therefore, add the following text to the list of offenses under **Mandatory life without parole** in Appendix G:

MCL 750.520b(2)(c), conviction of MCL 750.520b involving a victim under age 13 when the offender is aged 17 or older and the offender has a previous conviction under MCL 750.520b, 520c, 520d, 520e, or 520g involving a victim under the age of 13.

##### **Mandatory determinate minimums**

Effective August 28, 2006, 2006 PA 169 amended MCL 750.520b to require that a mandatory minimum sentence of 25 years be imposed on an offender aged 17 or older convicted of CSC-1 against a victim under the age of 13. Therefore, add the following text to the list of offenses under **Mandatory determinate minimums** in Appendix G:

MCL 750.520b(2)(b), CSC-1 when the offender is aged 17 or older and the victim is under the age of 13.